

**Simsbury Public Schools  
Simsbury, Connecticut  
Family and Medical Leave (FMLA)**

Simsbury Board of Education Policy: 4260.5 Family and Medical Leaves of Absence

The purpose of this policy is to establish guidelines for leaves taken by employees of the Board under the Federal Family and Medical Leave Act of 1993 and subsequent amendments.

**ELIGIBILITY** - Employees who have worked for the Board for at least twelve (12) months, and who have worked at least 1,250 actual work hours during the twelve (12) months immediately preceding the start of a leave, or in the case of school paraprofessionals in an educational setting who have worked at least 950 actual hours of work, are eligible for unpaid leave under the FMLA. Pursuant to Public Act 12-43, no hours worked by a school paraprofessional prior to May 12, 2014, the effective date of Department of Labor regulations implementing PA 12-43 and the 950 hour rule, shall count toward the 950 hours; only hours worked after May 12, 2014 will be counted.

**REASONS FOR LEAVE** - Leaves under the FMLA may be taken for the following reasons:

- the birth and/or care of the employee's newborn child; or
- the placement of a child with the employee by adoption or for foster care; or
- to care for the employee's spouse, child or parent who has a serious health condition; or
- to care for the employee's own serious health condition that renders the employee unable to perform the functions of his or her position.
- to serve as an organ or bone marrow donor.
- to care for an injured or ill service member (see below – Length of Leave – for further information);
- a qualifying exigency arising out of a family member's military service, including one or more of the following reasons (note – more detailed information on the following categories is available from [e.g. the Human Resources office]):
- short notice deployment;
- military events and related activities;

- childcare and school activities;
- financial and legal arrangements;
- counseling;
- rest and recuperation;
- post-deployment activities;
- parental care leave for military member's parent who is incapable of self-care and care is necessitated by the member's covered active duty;
- additional activities that arise out of the active duty or call to active duty status of a covered military member, provided that the Board and the employee agree that such leave qualifies as an exigency, and agree to both the timing and the duration of such leave.

(a) Basic FMLA Leave Entitlement:

If a leave is requested for one of the above-listed reasons, each eligible employee may take up to a total of twelve (12) weeks unpaid family or medical leave in any 12-month entitlement period.

The 12-month entitlement period for family or medical leave is measured on the basis of a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

(b) Leave to care for an Injured or Ill Service Member or Covered Veteran:

In addition to the reasons for leave listed above, an eligible employee may take up to 26 workweeks of FMLA leave during a 12-month period to care for (i) an injured or ill service member who is the employee's spouse, parent, child or next of kin and who incurred the injury or illness in the line of duty and while on active duty in the Armed Forces, or had a preexisting injury or illness prior to beginning active duty that was aggravated by service in the line of duty on active duty in the Armed Forces; or, (ii) an injured or ill covered veteran who is the employee's spouse, parent, child or next of kin.

For service members, the injury or illness must render the service member medically unable to perform the duties of his or her office, grade, rank or rating. This provision applies to service members who are undergoing medical treatment, recuperation, or therapy, or are in outpatient status or are on the temporary disability retired list, for a serious injury or illness.

For covered veterans, the veteran must be undergoing medical treatment, recuperation or therapy for a serious injury or illness and s/he (1) was a member of the

Armed Forces (including the National Guard or Reserves); (2) was discharged or released under conditions other than dishonorable; and (3) was discharged within the five-year period before the eligible employee first takes FMLA military caregiver leave to care for the veteran<sup>1</sup>.

For covered veterans, serious injury or illness means any of the following:

(i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or

(ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or

(iii) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or

(iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

When combined with any other type of FMLA qualifying leave, total leave time may not exceed 26 weeks in a single 12 month period. Standard FMLA leave procedures described below apply to all requests for and designation of leave for this purpose. *However*, in the case of leave to care for an injured or ill servicemember, the 12 month period begins on the day such leave actually commences.

Leave for a “qualifying exigency” arising out of a family member’s service:

FMLA eligible employees may also request leave due to a qualifying exigency arising out of a family member’s active duty status or call up/notification of impending active duty service, for up to 12 workweeks during a 12 month period. Such leave applies to an employee whose spouse, child or parent is on active duty or has been notified of an impending call or order to active duty. Please see the list of qualifying exigencies above, at “Reasons for Leave.”

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<sup>1</sup> The employee’s first date of leave must be within the five year period. However, the employee may continue to take leave throughout the single 12 month period even if the leave extends past the five year period. Note - special rules may apply to calculating the five year period for veterans discharged between October 28, 2009 and March 8, 2013. This period will effectively be excluded from the five year calculation.

When combined with any other type of FMLA qualifying leave, total leave time may not exceed 12 weeks in a single 12 month period.

### **TYPES OF LEAVE AND CONDITIONS:**

Full-time unpaid leave may be taken for any of the reasons permitted by the FMLA. Full-time leave excuses the employee from work for a continuous period of time.

Intermittent leave means leave taken in separate periods of time rather than for one continuous period of time. Examples of intermittent leave include: leave taken one day per week over a period of a few months; or leave taken on an occasional/as-needed basis for medical appointments.

Reduced schedule leave is leave that reduces the employee's usual number of work hours per day for some period of time. For example, an employee may request half-time work for a number of weeks so the employee can assist in the care of a seriously ill parent.

An employee may take full-time, intermittent or reduced schedule leave whenever it is medically necessary for a serious health condition of the eligible employee, his or her spouse, child or parent. Intermittent leave or reduced schedule leave for other reasons will be permitted only with the approval of the Superintendent or his/her designee.

If intermittent or reduced schedule leave is foreseeable based on planned medical treatment for the employee, a family member, or a covered service member, the Board may, in its sole discretion, temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates the type of leave requested. Also, special arrangements may be required of an instructional employee who needs to take intermittent or reduced-schedule leave which will involve absence for more than twenty (20) percent of the work days in the period over which the leave will extend (for example, more than five days over a five-week period).

#### Both Spouses Working for the Same Employer

If both spouses are employees of the Board and request leave for the birth, placement of a child by adoption or for foster care, or to care for a seriously ill parent, they only will be entitled to a maximum combined total leave equal to twelve (12) weeks in any 12-month entitlement period. If either spouse (or both) uses a portion of the total 12-week entitlement for one of the purposes in the preceding sentence, each is entitled to the difference between the amount he or she has taken individually and the 12 weeks for FMLA leave for their own or their spouse's serious health condition in the 12-month entitlement periods.

#### Leave Taken Near the End of an Academic Term

If a leave taken by an instructional employee for any reason begins more than five (5) weeks before the end of an academic term, the Board may require that employee to continue the leave until the end of the term if the leave will last at least three (3) weeks and

the employee would return to work during the three-week period before the end of the term.

If the employee begins a leave during the five-week period preceding the end of an academic term for a reason other than the employee's own serious health condition, the Board may require the employee to continue taking leave until the end of the term if the leave will last more than two (2) weeks and the employee would return to work during the two-week period before the end of the term.

If the employee begins a leave during the three-week period preceding the end of an academic term for a reason other than the employee's own serious health condition, the Board may require the employee to continue taking leave until the end of the term if the leave will last more than five (5) working days.

### **REQUESTS FOR LEAVE**

Requests for a family or medical leave must be submitted to the Department of Human Resources at least thirty (30) days before the leave is to commence, if possible. If thirty (30) days notice is not possible, requests must be submitted as soon as practicable under the circumstances.

For leaves taken because of the employee's or a family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form before the leave begins if possible. This form may be obtained from the Department of Human Resources. If such advance certification is not possible, the medical certification must be provided by the employee within fifteen (15) calendar days of the employer's request for the medical certification.

If an employee takes leave to care for his or her own serious health condition, immediately upon return to work the employee must provide medical certification that the health condition which created the need for the leave no longer renders the employee unable to perform the functions of the job. The Board reserves the right to require that the fitness for duty certification specifically address the employee's ability to perform the essential functions of his or her job. In such case the Board will provide the employee with a list of the essential functions of the employee's job at the time the Board issues a Designation Notice for FMLA leave, and the Board will indicate in the Designation Notice that the fitness for duty certification must address the employee's essential functions. This certification must be submitted to the Department of Human Resources.

### **USE OF PAID LEAVE**

Accrued paid personal leave and accrued paid vacation will be substituted (in that order) for any unpaid portions of family or medical leave taken for any reason. However, where the leave is for the employee's own serious health condition, accrued paid sick leave shall be substituted for unpaid portions of family or medical leave prior to the substitution of accrued paid personal and accrued paid vacation leave. The amount of unpaid family or medical leave entitlement is reduced by the amount of paid leave that is substituted.

### **MEDICAL INSURANCE AND OTHER BENEFITS**

During approved family or medical leaves of absence, the Board will continue to pay its portion of medical insurance premiums for the period of unpaid family or medical leave. The employee must continue to pay his/her share of the premium, and failure to do so may result in loss of coverage. If the employee does not return to work after expiration of the leave, the employee will be required to reimburse the Board for payment of medical insurance premiums during the family or medical leave, unless the employee does not return because of a serious health condition or circumstances beyond the employee's control.

During an FMLA leave, an employee may accrue illness time. However, unused employment benefits accrued by the employee up to the day on which the leave begins will not be lost upon return to work. Leave taken under this policy does not constitute an absence under Board's attendance policy.

### **REINSTATEMENT**

Except for circumstances unrelated to the taking of a family or medical leave, an employee who returns to work following the expiration of a family or medical leave is entitled to return to the job held prior to the leave or to an equivalent position with equivalent pay and benefits.

### **ADDITIONAL INFORMATION**

Questions regarding family or medical leave may be directed to the Superintendent or his/her designee.

#### Legal References:

Connecticut General Statutes: (Not applicable)

United States Code: 29 U.S.C. Section 2601 et seq.

Revised and adopted: June 10, 2014

## **SUPPLEMENTAL INFORMATION REGARDING ADMINISTERING FAMILY AND MEDICAL LEAVE:**

### **A. Eligibility Period:**

1. The 12-month entitlement period for family or medical leave is measured on the basis of a “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

2. The eligibility period for requesting a leave of absence for childrearing purposes is limited to the 12 month period following the birth, placement for adoption or foster care of a child. Leaves taken for these reasons must be taken concurrently, that is, not intermittently or on a reduced leave schedule, unless agreed to by the Superintendent of Schools or designee and the employee.

3. Leave taken in order to care for an employee's spouse, son, daughter or parent who has a serious health condition or because of an employee's own serious health condition may be taken intermittently or on a reduced leave schedule only if each leave is medically necessary and if agreed to by the Superintendent of Schools or designee and the employee. A reduced leave schedule is one that reduces an employee's usual number of hours.

**B. Collective Bargaining Agreements/Family and Medical Leave.** In those instances where collective bargaining agreements provide for personal illness leave, personal leave and vacation time, the following applications of such leave shall apply in conjunction with Family and Medical Leave.

- ❖ eligible employees may elect, or the Simsbury Board of Education may require the employee, to substitute any personal leave and vacation leave of the employee for leave provided for the care of a dependent.
- ❖ accrued or available sick leave shall be substituted for any part or all of a 12 week period taken for the serious health condition of the employee. Pregnancy and childbirth are considered serious health conditions. Leave taken prior to the birth of a child due to a pregnancy related disability and for 42 calendar days (6 weeks) following the birth of a child will be considered a paid leave subject to the availability of accrued sick leave. Should a longer period of recovery be required in an instance where surgery is necessary or other complications develop, paid leave shall continue, subject to the availability of accrued sick leave, for the duration of the leave. The Board shall continue its share of the cost of the medical benefits under the same conditions as if the employee had continued in active employment for the duration of the leave or up to twelve weeks whichever shall occur first.
- ❖ After 42 days or at such time the employee is no longer disabled due to a pregnancy and birth, paid sick leave will cease.

- ❖ Should the employee apply for a non-salaried child-rearing leave following a pregnancy and birth, such leave will normally become effective on the 43rd calendar day following the birth of a child or at such time the employee is no longer disabled. During the remainder of the 12 weeks of leave for childrearing purposes, the Board will continue its share of the cost of the medical benefits of the employee under the same conditions as if the employee had continued in active employment.
- ❖ The Board will continue for 12 weeks its share of the cost of the medical benefits of an employee granted child-rearing leave for purposes of adoption or foster care of a child. Upon conclusion of this 12 week period, the employee will be granted the option of continuing medical benefits by assuming 100% of the cost of these benefits, for the remainder of the leave, at the group rate available to Simsbury Board of Education employees.
- ❖ Any hours of leave taken intermittently are deducted on an hour by hour basis from the aggregate 12 week entitlement.

C. Special Rules For Certified Staff

The school year is divided into two academic terms. "Academic term" means the school semester which typically ends near the end of the calendar year or the end of spring each school year. A certified employee who begins leave more than five weeks before the end of a term may be required by the Board to continue taking leave until the end of the term if:

1. The leave will last at least three weeks, and
2. The employee would return to work during the three week period before the end of the term.
3. If a certified employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the term, the Board may require the employee to continue taking leave until the end of the term if:
  - (a) The leave will last more than two weeks, and
  - (b) The employee would return to work during the two-week period before the end of the term.
4. If the certified employee begins leave for a purpose other than the employee's own serious health condition, during the three week period before the end of the term, and the leave will last more than five working days, the Board may require the employee to continue taking leave until the end of the term.

D. Notification



Where leave is foreseeable, the employee must provide 30 days notice of his or her intent to take leave to the Superintendent of Schools or designee. Where this is not possible, the employee must provide such notice as practicable. If the leave is taken for foreseeable medical treatment, the employee must make an attempt to schedule the treatment so as not to unduly upset school system operations.

E. Medical Certification

Upon written request of the Board, medical certification issued by a health care provider will be required of employees requesting a leave of absence under Family and Medical Leave in the following circumstances:

- ❖ For the employee's own serious health condition;
- ❖ For the serious health condition of employee's family member; and
- ❖ For the serious health condition of a military service member.

Medical Certification should be provided on the forms provided to the employee by the Human Resources Office and should be completed in their entirety.

Typically, leave requests for the employee's own serious health condition require that the employee be out three or more consecutive days of incapacity. Additionally the employee must have two in-person doctor visits within the first 30 days of incapacity, the first visit within the first 7 days, unless extenuating circumstances exist. If the leave is based on a chronic condition that requires periodic visits to a healthcare provider, then the employee must have at least two such visits per year. Leave for pregnancy or prenatal care for an eligible employee is available for any period of incapacity.

F. Second and Third Medical Opinion: The Simsbury Board of Education may require, at its own expense, that the employee obtain a second opinion by a health care provider, which it designates, concerning any information in the original certification. If second medical opinion differs from the initial opinion, the Simsbury Board of Education may require, at the expense of the Board, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Board and the employee.

G. Periodic Recertification: Employees who are on leave due to personal ill health or the ill health of a family member must provide the Superintendent of Schools or designee a recertification from a health care provider attesting to the need for the employee's continued absence and expected date of return to work. Typically, this will be no more often than every thirty (30) days and in connection with the employee's absence. However, the Board reserves the right to seek recertification more frequently in circumstances permitted by the federal FMLA regulations. For conditions that may result in intermittent or reduced schedule leave for a period longer than six (6) months, the Board will require recertification at least every six (6) months.

H. Spouses with Same Employer: When both husband and wife are employed by the Simsbury Board of Education, a total of 12 weeks leave is available to the couple in the first year care of a child if the leave is taken for birth, foster care, adoption of a child or for the serious health condition of a parent. The 12 week limitation does not apply in the case of leave for other reasons. In those cases each employee is entitled to 12 weeks of leave.

I. Continuation of Health Insurance: During any period that an eligible employee takes leave under the provision of Family and Medical Leave, the Simsbury Board of Education will maintain its share of the cost of the employee's coverage under the group health plan of the Simsbury Public Schools for the duration of the leave at the same level and under the same conditions as if the employee had continued in active employment. The employee will be expected to reimburse the Board of Education for any premiums that the Board paid for maintaining the employees insurance coverage during any period of family and medical leave if the employee fails to return from the leave upon its expiration. The only exception to such recovery of premiums would be if the employee failed to return because of a serious health condition or circumstances beyond the employee's control.

J. Continuation of Pension and Retirement Payments: Certified employees may continue to participate in the Connecticut State Teacher's Retirement Program during a leave under the provisions of Family and Medical Leave. However, such contributory participation will be at 100% employee expense.

K. Return to Work: Under Family and Medical Leave, an employee returning to work following such leave is entitled to return to the position he or she held when the leave began or to an equivalent position with equivalent benefits. Reinstatement may only be denied for key employees who are designated as the highest paid 10% of the workforce and whose leave of absence would result in substantial and grievous harm to the Board of Education. In such case, the Superintendent or designee must notify the employee of its intent to deny restoration at the time the Board of Education determines that such harm would occur. After a leave has commenced, restoration may be denied when the employee elects not to return to work after receiving such notice. Employees are not entitled to other benefits during the period of leave.

L. Qualifying Exigency Arising out of a Family Member's Military Service:

- (1) short notice deployment;
- (2) military events and related activities;
- (3) childcare and school activities;
- (4) financial and legal arrangements;
- (5) counseling
- (6) rest and recuperation
- (7) post-deployment activities; and,
- (8) additional activities where the employer and employee agree to the leave